IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.2435/2005

Mihir Kumar Jha

Versus

The State of Rajasthan and ors.

Date of Order : 18.7.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr. P.R. Singh, for the petitioner/s

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The instant petition has been filed by the petitioner with the prayer that the respondents may kindly be directed to reimburse entire amount i.e. Rs.1,87,016/- incurred by the petitioner in his treatment of Coronary Artery Angio Plasy at Bombay Hospital, Mumbai and the order dated 8.9.2004 (Annex.14) may kindly be quashed and set-aside. Further order dated 3.12.2004 (Annex.-17) may kindly be quashed and set-aside qua the petitioner and any other ancillary charges admissible according the rules of 1970 may be ordered to be reimbursed

to the petitioner and the respondents may also kindly be directed to pay interest to the petitioner @ 18% p.a.

Brief facts of the case are that the petitioner suffered heart attack (Myo Cardial Infraction) and, therefore, he was admitted in a precarious condition and checked at Govt. Mahatma Gandhi Hospital, Jodhpur where it was detected that he is suffering from cardiac trouble. He remained admitted in the Hospital for a period of one week and, thereafter, he was advised for six weeks rest by the treating Dr. Sanjeev Sanghvi.

Despite that the condition of the petitioner could not be recovered and, therefore, he requested to extend his leave for further six weeks which was allowed on the recommendation of Medical Board constituted for this purpose vide order dated 8.4.2004 (Annex.-1) issued by the Medical Board.

The petitioner was directed to remain present before the Medical Board on 7.4.2004. The Medical Board, after having completed examination of the

petitioner, arrived at a conclusion that the petitioner still requires rest for six weeks. Therefore, vide order dated 8.4.2004, he was advised to take rest for six weeks.

It is further averred that the petitioner, after recommendation of the Medical Board, sought permission for leaving Headquarters, since no near relatives or family Member was available at Jodhpur to look him. The permission to leave Headquarters was granted on 8.4.2004 and, thereafter, the petitioner went to Mumbai by regular flight on 11.4.2004 (Annex.-3). However, just after check-out from Shanta Cruze Air Port, he felt sever angina pain and, therefore, he was directly taken to the Bombay Hospital and subjected to medical treatment.

The petitioner further contended in his petition that before getting the air-ticket for regular flight of Mumbai he underwent the medical check up and was declared fit to travel by air as per the Certificate issued by Assistant Professor, S.N. Medical College, Jodhpur on 10.4.2004 (Annex.-4). Later on, the petitioner reached the Bombay Hospital where the

petitioner was admitted as an emergency case - a case of Post Myocardial Infraction Angina and he underwent Coronary Angiography on 12.4.2004 wherein 99% Stenosis in Left anterior descending artery was detected. Due to 99% blockage, he was advised for Coronary Angio Plasty as early as possible, being an emergency case. He was advised not to move from the hospital and, therefore, the petitioner has no alternate remedy except to undergo for the Angio Plasty as advised by the doctors of Bombay Hospital.

Under these circumstances, the Angio Plasty operation was performed upon the petitioner in the Bombay Hospital, where he incurred expenses of Rs.,1,87,016/-. The petitioner has no alternate remedy to take any other recourse except to undergo the operation of Angio Plasty in Bombay Hospital to save his life from the disease as mentioned above. Thus, in such an emergent situation, the petitioner was treated at Bombay Hospital for operation of the Angio Plasty and later on a Certificate (Annex.-6) in this regard was issued by the Bombay Hospital.

After treatment he returned back to Jodhpur and joined the duty.

On 21.7.2004, the petitioner made an application before the concerned officer to reimburse the relevant bills of the expenses incurred by him for his Angio Plasty Operation in Bombay Hospital. The concerned authority, vide order dated 8.9.2004 (Annex.-5), informed the petitioner that since he was not referred to the Bombay Hospital for heart surgery by the Medical Board constituted by the M.G. Hospital, the expenses incurred by him his Angio Plasty Operation are not reimbursable.

On receipt of the order dated 8.9.2004 the petitioner submitted a representation dated 11.10.2004 (Annex.-16) to the respondent No.2. In response to the said representation dated 11.10.2004, respondent No.2 (The Dy. Commissioner) asked the petitioner as to under what circumstances, he underwent the heart surgery at Bombay Hospital, without prior permission of the Principal, Medical College, Jodhpur.

In this writ petition, the main grievance of the petitioner is that he has submitted a number of representations for reimbursement of medical expenses, but nothing has been done sofar in this regard, nor the petitioner has been paid the amount of medical expenses.

During the course of arguments , it has been requested by the learned counsel for the petitioner that the respondent authority be directed to consider the representation of the petitioner in light of the fortuitous circumstances sympathetically, for reimbursement of medical expenses. Since the request of the petitioner is only for consideration of the representation, the instant petition is disposed of, at this stage, by giving a direction to the respondent authorities to consider the representation of the petitioner, in accordance with law only.

Thus, this writ petition filed by the petitioner is disposed of in the manner that the petitioner is directed to file a fresh representation within a period of 15 days from today and the respondent authorities shall consider and decide the same either way in

accordance with law. If it is found that the petitioner is entitled for any relief sought for, in accordance with law, then the same may be given to him and if it is found that he is not entitled to the relief sought for, then a reasoned and speaking order, strictly in accordance with law may be passed after affording an opportunity of hearing to the petitioner.

(R.P.VYAS)J.

Rm/